

STATE OF MICHIGAN
COURT OF APPEALS

MICHAEL BROWN and ELIZABETH BROWN,

Petitioners-Appellants,

v

SHERMAN TOWNSHIP,

Respondent-Appellee.

UNPUBLISHED

October 21, 2014

No. 316652

Tax Tribunal

LC No. 00-438830

Before: SAAD, P.J., and O'CONNELL and MURRAY, JJ.

PER CURIAM.

Petitioners appeal as of right the Tax Tribunal's final order and judgment upholding respondent's uncapping of certain property tax values. We affirm.

Petitioners transferred ten parcels of property in Sherman Township to their son, Jeffrey Brown, by quit claim deed. At the time of this transfer, the federal government had a tax lien on those ten parcels. The federal government sued petitioner Michael Brown, d/b/a Residential Construction and Roofing, and Jeffrey Brown, seeking enforcement of federal tax liens against the ten parcels. The suit resulted in a consent judgment, which recognized the quit claim deed to Jeffrey Brown and which decreed that the United States had valid tax liens "against ten (10) parcels of real property held by Jeffrey W. Brown."

Petitioners' transfer of the property to Jeffrey prompted the township to uncapped the taxable value for the parcels. Petitioners protested this uncapping to the Township Board of Review. The board of review upheld the uncapping, and petitioners appealed that decision to the Tax Tribunal. In the materials filed in the Tax Tribunal, petitioners acknowledged that the parcels were titled to Jeffrey Brown. The Tribunal upheld the board of review's decision to uncapped the taxable values.

On appeal, petitioners argue that the transfer of property to their son is not a transfer of ownership under General Property Tax Act (GPTA), MCL 211.1 *et seq.*, because, according to petitioners, the transfer was fraudulent. Specifically, petitioners argue that under the Uniform Fraudulent Transfers Act (UFTA), MCL 566.31 *et seq.*, a fraudulent transfer is void *ab initio*.

Absent fraud, our review of Tax Tribunal decisions is limited to determining whether the Tribunal made an error of law or adopted the wrong principle. *President Inn Props, LLC v Grand Rapids*, 291 Mich App 625, 631; 806 NW2d 342 (2011). The factual findings made by

the Tribunal are conclusive so long as they are supported by competent and substantial evidence. *Id.* This Court reviews Tax Tribunal decisions de novo when statutory interpretation is involved. *Briggs Tax Serv, LLC v Detroit Pub Schs*, 485 Mich 69, 75; 780 NW2d 753 (2010).

Petitioners' argument on appeal is without merit. Under the GPTA, a property's taxable value generally is the lesser of its state equalized value or its capped taxable value. MCL 211.27a(2). A transfer of ownership allows reassessment of the property based on its state equalized value, uncapping the rate of increase provided for by statute. MCL 211.27a(3). A "transfer of ownership" is "the conveyance of title to or a present interest in property, including the beneficial use of the property, the value of which is substantially equal to the value of the fee interest." MCL 211.27a(6). This expressly includes a conveyance by deed. MCL 211.27a(6)(a). The record indicates that petitioners executed a quit claim deed conveying the property to their son. Moreover, the record demonstrates that petitioner Michael Brown acknowledged his son as the title holder of the property in the federal consent judgment.

Moreover, the UFTA provides no relief to petitioners in this case because, as respondent points out, the UFTA clearly states that fraudulent transfers may be set aside "in an action by a creditor." MCL 566.38(2); see also MCL 566.37. Petitioners have not demonstrated that they may avail themselves to the protections afforded to creditors under the UFTA.

Petitioners also cite to MCL 566.101, which applies to conveyances of land made "with the intent to defraud prior or subsequent purchasers . . . of the same lands." There is nothing in the record to indicate that this was petitioners' motivation when transferring the property to their son.

Affirmed.

/s/ Henry William Saad
/s/ Peter D. O'Connell
/s/ Christopher M. Murray